



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 8, 1991

Mr. Jim Grissom
Assistant City Attorney
City of Harlingen
P.O. Box 2207
Harlingen, Texas 78551

OR91-471

Dear Mr. Grissom:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13717.

You have received a request for a copy of a report which summarizes a police department investigation into a terminated employee's job performance. You have submitted to us for review a report, authored by a sergeant on the Harlingen Police Department, titled "DOCUMENTATION OF INCIDENTS LEADING TO THE DISCOVERY OF MISSING FUNDS FROM THE MUNICIPAL COURT DEPOSIT," which you claim is responsive to the request. You claim that "this matter is the subject of an ongoing criminal investigation" and that the report is excepted from required public disclosure by section 3(a)(8) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. Open Records Decision No. 474 (1987) at 4, held that where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of information which relates to the incident. When section 3(a)(8) is claimed, it must be determined whether release would undermine a legitimate interest of law enforcement or prosecution, and a case-by-case approach is necessary. Open Records Decision No. 434 (1986). We have reviewed the documents submitted to us and conclude that they may be excepted from required public disclosure

under section 3(a)(8).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-471.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GK/lcd

Ref: ID# 13717

cc: Ms. Yolanda Garza
Rt. 1, Box 23
Harlingen, Texas 78552